

UNITED STATES DISTRICT COURT

for the

Southern District of Ohio

United States of America
v.

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Case No. 2:23-mj-205

Michael A. Berry
Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of 03/28/2023 in the county of Union in the
Southern District of Ohio, the defendant(s) violated:

Code Section
18 U.S.C. 922(g)(1)

Offense Description
Possession of a firearm or Ammunition by a Convicted Felon

This criminal complaint is based on these facts:
See Attachment A

☒ Continued on the attached sheet.

Matthew j. Voytek IV

Complainant's signature

Matthew Voytek, ATF Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: March 29, 2023

City and state: Columbus, Ohio

Kimberly A. Johnson
United States Magistrate Judge



ATTACHMENT A

I, Matthew Voytek, being duly sworn, depose and state that:

1. I have been a Special Agent with the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) since January of 2022. I am a graduate of the ATF National Academy Special Agent Basic Training Program and the Federal Law Enforcement Training Center, Criminal Investigator Training Program. I worked as an Ohio State Trooper for the Ohio State Highway Patrol from February 2014 to June 2021. As a result of my training and experience as an ATF Special Agent, I am familiar with federal criminal laws pertaining to firearms violations. As a Special Agent, I am also authorized to carry firearms, execute warrants, make arrests for offenses against the United States, and perform other such duties as authorized by law.
2. This affidavit is made in support of a criminal complaint against Michael A. BERRY, DOB 06/19/1988, for a violation of Title 18 U.S.C. Section 922(g)(1) Possession of a firearm or Ammunition by a Convicted Felon. The statements in this affidavit are based upon my training and experience, consultation with other experienced investigators and agents, review of related police reports, and other sources of information relative to firearms investigations. This affidavit is intended to set forth probable cause in support of the criminal complaint and does not purport to set forth all of my knowledge regarding this investigation.
3. ATF Investigators found 478 Allenby Drive, Marysville, Ohio 43040 as the current residence for BERRY based upon surveillance conducted at the residence for BERRY. GPS pings for a cell phone being used by BERRY had been consistently pinging in the Elmwood Villas neighborhood area of Marysville, Ohio starting on 5/12/22, in the evening, night and early morning hours.
4. On March 22, 2023, ATF investigators spoke to an employee that works at the Elmwood Villas apartment complex where unit 478 Allenby Drive is located. The employee stated they have observed BERRY in and around the residence on multiple occasions.
5. On March 28, 2023, ATF Investigators conducted surveillance of the residence prior to the execution of the search warrant. At approximately 9:55 am, investigators observed BERRY exit the residence and walk westbound away from the residence.
6. On March 28, 2023, during the execution of the search warrant, mail addressed to BERRY for 478 Allenby drive address was located inside the residence along with legal documents that were located within the bedroom that had Michael BERRY's name and information on it.
7. On March 28, 2023, at approximately 10:00 am, ATF Special Agents, and Task Force Officers executed a federal search warrant at 478 Allenby Drive, Case No. 2:23-mj-192. During the execution of the Search Warrant, while looking for documents pertaining to

the Economic Injury Disaster Loan with the Small Business Administration, ATF Agents and Task Force Officers located three firearms, and a torn off plastic baggy containing multiple round blue pills within the residence. The pills were located on the closet floor in plain view. The pills were preliminarily identified as Oxycodone Hydrochloride pills, a scheduled substance that were further identified through Drugs.com. The firearms were further identified as two shotguns and a handgun. In addition, a drum magazine and a box of ammunition were located. The handgun was located in plain view, within GOODMAN's and BERRY's bedroom closet. The two shotguns with the drum magazine were located underneath GOODMAN and BERRY's bed.

8. On March 28, 2023, at approximately 10:30 am an interview was conducted with Tanesha GOODMAN while the search warrant was being conducted. GOODMAN was read her rights and signed the form that was read to her, acknowledging she understood her rights and agreed with talking to investigators without a lawyer present. SA Voytek began asking her questions pertaining the SBA loan she applied for, along with questions pertaining to the firearms that were located within the residence. GOODMAN stated to ATF Investigators that there were multiple firearms located within the residence. GOODMAN stated that the pistol that was in the closet was hers, and that she purchased it from Vance's Outdoors gun store. GOODMAN stated that the shotguns underneath the bed, she did not own, and that the shotgun's were her boyfriends, Michael BERRY. SA Voytek asked GOODMAN if BERRY lives at the residence. GOODMAN replied and said yes. SA Voytek asked how long has BERRY lived at the residence, GOODMAN stated BERRY has lived at the residence for about a year.
9. On March 28, 2023, at approximately 1:49 pm a federal search warrant at 478 Allenby Drive, Case No. 2:23-mj-201 was signed and sworn to before United States Magistrate Judge Kimberly A. Jolson. The warrant was executed at approximately 2:00 pm. During the execution of the Search Warrant, the three firearms and the plastic baggy preliminarily identified as Oxycodone Hydrochloride pills were seized. The firearms were further identified to be a Citadel Model Boss-25 12-gauge shotgun, serial number # 15236, Stevens Model 320 12-gauge shotgun, serial number 151587R and a Ruger model SR9C 9mm pistol, serial number 334-85550.
10. On March 28, 2023, at approximately 2:20 pm an interview was conducted with Michael BERRY. BERRY was read his rights but declined to sign the form that was read to him. BERRY verbally acknowledged he understood his rights and verbally agreed with talking to investigators without a lawyer present but did not want to sign the form. SA Voytek and ATF Task Force Officer Orick asked BERRY if he lived at the residence. BERRY stated that he did not live at the residence, but admitted that he sleeps at the residence periodically, has clothes at the residence and receives mail at the 478 Allenby drive residence. When asked if the firearms located in the residence were his, BERRY stated that they were not his firearms. When asked who owned the firearms, BERRY stated he did not know. SA Voytek and TFO Orick asked BERRY if the Oxycodone pills located

in the bedroom were his, BERRY stated he did know that there were pills in the bedroom and did not know who's they were.

11. An ATF agent with experience in determining the interstate nexus of firearms has concluded that the three firearms were not made in the state of Ohio and therefore has traveled across state lines, creating an interstate-commerce nexus.
12. BERRY has a felony of the first degree. BERRY was subsequently found guilty of Aggravated Robbery in the state of Ohio. Case No. 06CR001515.
13. BERRY has a felony of the third degree on or about June 14, 2014. BERRY was subsequently found guilty of Weapons Under Disability in the state of Ohio, in Franklin County Court of Common Pleas, Case No. 13CR005898.
14. BERRY has a Felony of the Fourth Degree on or about April 2, 2012. BERRY was subsequently found guilty of Receiving Stolen Property in the State of Ohio, in Franklin County Court of Common Pleas, Case No. 11CR005382.
15. Because BERRY was convicted of Aggravated Robbery a Felony of the First Degree Receiving Stolen Property a Felony of the Fourth Degree and Weapons Under Disability a Felony of the Third Degree and imprisoned for more than a one year, BERRY was aware that he was not permitted to possess a firearm.
16. Your affiant states that the offense occurred in Union County, Ohio, which is in the Southern District of Ohio.
17. Based upon the aforementioned information and events, and your affiant's training and experience in dealing with federal firearms violations, your affiant believes that probable cause exists to believe that on or around March 28, 2023, Michael A. BERRY, knowing he was a convicted felon did knowingly possess firearms which were not manufactured in the State of Ohio and therefore travelled in and/or affected interstate commerce, in violation of Title 18, United States Code Section 922(g)(1).

Matthew j. Voytek IV
Matthew Voytek, ATF Special Agent

Sworn to before me and signed in my presence.

Kimberly A. Johnson
Kimberly A. Johnson
United States Magistrate Judge

The seal of the United States District Court for the Southern District of Ohio is circular. It features an eagle with spread wings in the center, perched on a shield with vertical stripes. The words "UNITED STATES DISTRICT COURT" are written in a circle around the eagle, and "SOUTHERN DISTRICT OF OHIO" is written at the bottom.

March 29, 2023

Date